

REMARKS

Claims 3-6, 9-10, 12-15, 28-29, 31, and 33-36 are pending. Each of these claims stands rejected in the September 30, 2005, Office action. Reconsideration of these rejections is requested for the following reasons.

Claim 12 and its dependent claims are patentable over the cited references at least because none of them, alone or in any lawful combination, describe or suggest “swelling the coating on the medical device with a supercritical fluid devoid of coating prior to exposing the coating on the coated medical device to the supercritical fluid that has been interfaced with the therapeutic” as recited in claim 12. United States patent 6,627,246 is cited by the Office action as disclosing this language, however, nowhere in the ‘246 patent is a coating of a medical device swelled with a supercritical fluid devoid of coating prior to exposing the coating to a therapeutic. The Office action cites to col. 6:56-66 of the ‘246 as teaching this language, however, this portion of the ‘268 patent simply states that a first coating may be used prior to subsequent coatings that contain therapeutics. It doesn’t address or suggest that a supercritical fluid devoid of coating may be used. Rather, in this instance and elsewhere in the ‘246 patent, each time a supercritical fluid is used it contains a coating material for deposition on the device being coated. Thus, for at least this reason, claims 12-15 are patentable over the cited references.

Claim 33 and its dependent claims are patentable over the cited references for at least the same reason as it recites “swelling the carrier coating with a supercritical fluid devoid of coating prior to providing a supercritical fluid carrying a therapeutic.”

Claim 9, which has been rewritten in independent form, is patentable at least because it recites “removing residual therapeutic from the supercritical fluid after collecting the supercritical fluid.” The Office action cites to Allen, U.S. patent 6,495,204, for the notion that

“coating material can be removed and recycled for further use.” However, Allen does not address therapeutic or coating medical devices, consequently, the undersigned submits it is not prior art and may not be cited in an obviousness rejection. Moreover, even if it were, Allen fails to discuss removing residual therapeutic, which is not coating, but is, rather, an active ingredient that was to be interfaced with a coating. Thus, even the cited portion of Allen fail to address recycling a therapeutic or treatment as recited in the claims. For at least each of these reasons, claim 9 is patentable over the cited references.

CONCLUSION

Without waiver of any argument and for the foregoing reasons, the Applicant respectfully requests the Examiner's favorable consideration of the claims as pending after entry of this Amendment. Should any questions arise, the Examiner is invited to contact the undersigned at the number given below. The Commissioner is authorized to charge any necessary fees or to credit any overpayment to Deposit Account No. 11-0600.

Respectfully submitted,



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